

- "(1) Whether claimant met with personal injury to her right wrist, elbow and arm from the work accident and whether her right carpal tunnel syndrome and right ulnar neuropathy were causally related to the work accident.
- "(2) Even if claimant's carpal [sic] tunnel syndrome and right ulnar neuropathy were caused by the work accident, is the liability of respondent and insurance carrier for treatment of those conditions provided by Dr. Mangouglu limited to \$500 because the insurance company sent a letter to Dr. Mangouglu before his treatment commenced, advising that he was not authorized to treat those conditions.

- "(3) Whether the administrative law judge exceeded his jurisdiction in awarding temporary total disability compensation benefits behind the February 29, 1996 date of filing of the Application for Preliminary Hearing where claimant presented no evidence of 'highly unusual circumstances' as required by K.A.R. §51-3-5a.
- "(4) Whether the administrative law judge exceeded his jurisdiction in awarding payment of lost wages to the son of claimant for driving claimant to an authorized medical visit in claimant's car when K.A.R. §51-9-11 limits the payment for travel to the applicable mileage rate."

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After reviewing the entire record, for preliminary hearing purposes the Appeals Board finds:

The preliminary hearing Order entered by the Assistant Director should be affirmed.

(1) The Appeals Board has the jurisdiction and authority to review the issue whether claimant's right arm injuries were caused or aggravated by her February 1995 work-related accident. Although the issue relates to the question of nature and extent of injury, it also gives rise to the question whether claimant has sustained personal injury by accident arising out of and in the course of her employment with the respondent. Thus, the Appeals Board has the jurisdiction and authority under K.S.A. 44-534a, as amended by S.B. 649 (1996), to review the first issue listed above.

At this juncture of the proceeding, the Appeals Board lacks the jurisdiction to determine the remaining issues listed as Nos. 2, 3 and 4 above. The Assistant Director has the authority to order payment of medical expense (including that expense related to travel for medical reasons) and temporary total disability benefits at preliminary hearing and, therefore, has not exceeded his jurisdiction and authority in that regard. Because the Assistant Director has not exceeded his authority which he has at the preliminary hearing stage of this proceeding and because the issues numbered 2, 3 and 4 do not fall within the jurisdictional issues specifically enumerated in K.S.A. 44-534a, as amended, the Appeals Board may not consider them at this time.

(2) The Appeals Board agrees with the Assistant Director's conclusion that claimant's right arm injury and symptoms are related to her fall at work on February 27, 1995. This conclusion is supported by claimant's testimony and the medical records which indicate claimant was complaining to her doctors of right upper extremity symptoms as early as March 1995. Also, neurosurgeon Ali Manguoglu, M.D., relates claimant's right arm symptoms and condition to the February 1995 fall. At this time, the Appeals Board finds Dr. Manguoglu's opinions to be persuasive.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the preliminary hearing Order entered by Assistant Director Brad Avery dated May 31, 1996 should be, and hereby is, affirmed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of August 1996.

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BOARD MEMBER

c: Brian D. Pistotnik, Wichita, KS  
Kim R. Martens, Wichita, KS  
Brad E. Avery, Assistant Director  
Philip S. Harness, Director